

BILL OWENS
Governor

VICKIE ARMSTRONG
Executive Director

JEFFREY M. WELLS
Deputy Executive Director

MELVIN MADDEN
Associate Director
for Finance



**DEPARTMENT OF LABOR AND
EMPLOYMENT
OFFICE OF FINANCE**
1515 Arapahoe Street, Tower 2, Suite 700
Denver, Co 80202-2117
(303) 620-4400

Category: Finance (F)
Subject: Audit, Audit Resolution, Audit Appeal, and Debt Collection Procedures
Source: State/Federal
Revise/Replace: N/A
Contact: Finance
Distribution: All Workforce Region Administrative and Financial Staff. CDLE Employment and Training Programs and Financial Staff.
Colorado One-Stop System Policy Guidance Letter #: 00-19-F6
Date: July 7, 2000

I. REFERENCES:

Single Audit Act (31 U.S.C. §§7501-7507), *As Amended by the Single Audit Act (SAA) Amendments of 1996* (P.L. 104-156); Office of Management and Budget (OMB) Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations* (June 30, 1997) codified by the U.S. Department of Labor (DOL) at 29 CFR 99; *Audit Requirement for Grants, Contracts, and Other Agreements*, 20 CFR 96; Training and Employment Guidance Letter (TEGL) No. 2-87, Colorado Revised Statutes (C.R.S.) 5-12-102, 24-30-202.4 and 24-4-05; Policy Guidance Letter (PGL) #95-22-AD5, *Record Retention* (April 18, 1996), PGL #98-04-F6, *Audit, Audit Resolution, and Audit Appeal Procedures* (February 26, 1998).

II. PURPOSE:

This Policy Guidance Letter (PGL) integrates the SAA, as amended by the SAA Amendments of 1996, and the 1997 revised OMB Circular A-133, which implemented the 1996 SAA Amendments and established uniform audit procedures for all non-federal grant recipients, including state and local governments, colleges and universities, hospitals, and non-profit organizations. In addition, this PGL integrates other applicable Federal and State regulations and the Colorado Department of Labor and Employment's (CDLE's) audit, audit resolution, audit appeal and debt collection policies and procedures for all CDLE subrecipients.

Audit, Audit Resolution, Audit Appeal, and Debt Collection Procedures
June 28, 2000

III. BACKGROUND:

The SAA Amendments of 1996 were signed into law on July 5, 1996. OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, which implements the 1996 SAA Amendments, was issued June 30, 1997. The standards set forth in the SAA and Circular A-133 that apply to non-Federal entities were adopted and implemented by the U.S. DOL in codified regulations at 29 CFR 99. The SAA Amendments and OMB Circular A-133 both apply to audits of fiscal years beginning after June 30, 1996. That is, they apply to audits with fiscal years beginning on or after July 1, 1996.

The SAA Amendments (Attachment A), OMB Circular A-133 (Attachment B), and the Federal laws and regulations referred to above are incorporated into this CDLE audit policy by reference. Additional and highlighted CDLE audit policies, audit resolution, audit appeal, and debt collection procedures are detailed within the body of this PGL.

IV. POLICY/ACTION:

With the issuance of this PGL, CDLE is establishing these audit, audit resolution, audit appeal, and debt collection policies and procedures for subrecipient audits whose fiscal years begin after June 30, 2000 (i.e., on or after July 1, 2000). (Attachment 1)

PGL #98-04-F6-1 should be referred to for fiscal years beginning after June 30, 1996 through June 30, 2000.

In order to assist each subrecipient with meeting its audit requirements, this PGL should be referenced when procuring audit services, as audit issues arise within the subrecipient's organization or with its lower tier subrecipients, and as other audit related matters arise. In addition, subrecipients should provide this PGL to their independent auditor during the audit work itself.

V. IMPLEMENTATION DATE:

The PGL is effective July 1, 2000.

VI. INQUIRIES:

Inquiries concerning this PGL should be directed to the Finance Office, Audit, at 318-8050.

Melvin Madden
Associate Director for Finance

Robert D. Hale, Director
Division of Employment and Training

Attachments: 1, A, and B

TABLE OF CONTENTS

AUDIT, AUDIT RESOLUTION, AUDIT APPEAL, AND DEBT COLLECTION PROCEDURES (Attachment 1)

<u>Sections</u>	<u>Page Number (s)</u>
I. DEFINITIONS.....	1
II. AUDIT REQUIREMENTS	1
A. Thresholds.....	1
B. Commercial Organizations/For-Profit Subrecipients	1
C. Audit Costs - Allowability	2
D. Sanctions and Corrective Actions.....	2
E. Record Keeping	2
F. Record Retention	3
III. RESPONSIBILITIES.....	3
A. Auditee.....	3
B. Cognizant Agency.....	8
C. Oversight Agency	9
D. Federal Awarding Agency	9
E. Pass-Through Entity	10
F. Auditors	10
IV. CDLE=S AUDIT REQUIREMENTS AND PROCEDURES.....	15
A. Auditor Procurement.....	15
B. Submission of Audit Report(s) to CDLE.....	15
1. Reporting Package	15
2. Extension Requests	15
3. Management Letter	16
4. Corrective Actions	16
5. CDLE=s Address	16
6. Receipt of Reporting Package and Management Letter	16
C. Audit Resolution Process.....	17
1. Review	17
2. Initial Determination.....	17
3. Informal Resolution	18
4. Final Determination	19

TABLE OF CONTENTS

AUDITS, AUDIT RESOLUTION, AUDIT APPEAL, AND DEBT COLLECTION PROCEDURES (Attachment 1)

<u>Sections</u>	<u>Page Number (s)</u>
D. Audit Appeal/Hearing Process.....	20
1. Request for Hearing	20
2. Hearing Scheduled.....	20
3. Rules of Procedure.....	21
4. Hearing Decisions	21
E. Subrecipient=s Audit Appeal/Hearing Process.....	21
F. Sanctions for Misexpenditures of JTPA	21
G. Repayment Options.....	22
1. Repayment	22
2. Reprogramming	22
H. Process for Waiver of State Liability.....	22
I. Requests for Advance Approval for the State to Forego Debt Collection.....	23
J. Record Keeping	25
K. Record Retention	25

OTHER ATTACHMENTS

Single Audit Act (31 U.S.C. §§7501-7507), As Amended by the Single Audit Act Amendments of 1996 (P.L. 104-156)	Attachment A
Codification of Department of Labor Audit Resolution Regulations at 29 CFR Part 96, and U.S. Department of Labor codification of the OMB Circular A-133 “Audits of States, Local Governments, and Non-Profit Organizations” at 29 CFR Part 99	Attachment B

**AUDIT, AUDIT RESOLUTION, AUDIT APPEAL, AND DEBT COLLECTION
PROCEDURES**

I. DEFINITIONS

See  7501 of the Single Audit Act (SAA) Amendments (Attachment A) and  99.105 of Office of Management and Budget (OMB) Circular A-133 (Attachment B) for definitions.

II. AUDIT REQUIREMENTS

Each non-Federal recipient and subrecipient expending Federal awards is responsible for complying with the SAA Amendments and OMB Circular A-133.

A. Thresholds

If a non-Federal entity (recipient or subrecipient) expends \$300,000 or more in its fiscal year, in Federal awards, the entity shall have an annual Single or Program-Specific Audit made in accordance with the SAA, as amended, and OMB Circular A-133.

1. If a non-Federal entity expends \$300,000 or more in Federal awards in its fiscal year under more than one Federal program, an annual Single Audit shall be conducted in accordance with subsections (b) through (i) of  7502 and  7505 of the SAA and  99.500 of OMB Circular A-133.
2. If a non-Federal entity expends \$300,000 or more in Federal awards in its fiscal year under only one Federal program, an annual Program-Specific Audit may be conducted in accordance with the applicable provisions of  7502 and  7505 of the SAA and  99.235 of OMB Circular A-133.
3. If a non-Federal entity expends less than \$300,000 in Federal awards in its fiscal year, no audit is required for that fiscal year under the requirements of the SAA and OMB Circular A-133, except as noted at  99.215(a) of OMB Circular A-133.

B. Commercial Organizations/For-Profit Subrecipients

A commercial organization, which is a non-Federal entity (recipient or subrecipient), that expends \$300,000 or more in its fiscal year in Federal Awards to operate a DOL program(s), shall have either:

1. A program specific independent financial and compliance audit of the DOL Federal program(s) within its scope, and is conducted and prepared in accordance with generally accepted government auditing standards; or
2. An organization-wide audit conducted in accordance with OMB Circular A-133.

C. Audit Costs - Allowability

The cost of audits made in accordance with the provisions of the SAA Amendments and OMB Circular A-133 are generally allowable charges to Federal awards. The charges may be considered direct costs or an allocated indirect cost, as determined in accordance with the provision of the applicable OMB cost principles circulars.

No audit costs may be charged to Federal awards when audits required by the SAA Amendments and OMB Circular A-133 have not been made or have been made but not in accordance with the SAA Amendments and OMB Circular A-133.

D. Sanctions and Corrective Actions

In cases of continued inability or unwillingness to have an audit conducted in accordance with the SAA Amendments, OMB Circular A-133, and this PGL, CDLE shall take appropriate actions including, but not limited to, implementing one or more of the following sanctions or corrective actions:

1. Withholding a percentage of the Federal awards until the audit is completed satisfactorily;
2. Withholding or disallowing overhead costs;
3. Suspending Federal awards until the audit is conducted and/or completed;
4. Terminating the Federal award;
5. Breach of contract listing and referral to State purchasing for suspension and debarment actions.

E. Record Keeping

All non-Federal entities, whether subject to the audit requirements or not, must continue to comply with any Federal statute and regulations that require the non-Federal entity to maintain records concerning Federal awards provided to the non-Federal entity. All non-Federal entities must permit access to and make available such records for review, monitoring, or audit by appropriate Federal Agencies, pass-through entities, or the Comptroller General.

To carry out oversight responsibilities consistent with purposes of the SAA Amendments, OMB Circular A-133 and this PGL, audit working papers shall be made available, upon request, to: the cognizant or oversight agency for audit or its designee; a Federal agency providing direct or indirect funding; and GAO at the completion of the Audit, as part of a quality review, to resolve audit findings. Access to working papers includes the right of Federal agencies to obtain copies of working papers, as is reasonable and necessary.

F. Record Retention

The auditor shall retain working papers and reports for a minimum of three years after the date of issuance of the Auditor's Report(s) to the auditee, unless the auditor is notified in writing by the cognizant agency for audit, oversight agency for audit, or pass-through entity to extend the retention period. When the auditor is aware that the Federal awarding agency, pass-through entity, or auditee is contesting an audit finding, the auditor shall contact the parties contesting the audit finding for guidance prior to destruction of working papers and reports.

III. RESPONSIBILITIES

A. Auditee

An auditee is the non-Federal entity (recipient or subrecipient) that expends Federal awards that must be audited.

The auditee shall:

1. Identify, in its accounts, all Federal awards received and expended and the Federal programs under which they were received. Federal program and award identifications shall include, as applicable, the Catalog of Federal Domestic Assistance (CFDA) number, award number, and year, name of the Federal agency, and name of the pass-through entity.
2. Maintain internal control over Federal programs that provides reasonable assurance that the auditee is managing Federal awards in compliance with laws, regulations, and provisions of contracts or grant agreements that could have a material effect on each of its Federal programs.
3. Comply with laws, regulations, and the provisions of contracts or grant agreements related to each of its Federal programs.

4. Prepare appropriate financial statements.

The financial statements shall reflect the auditee=s financial position, results of operations or changes in net assets, and where appropriate, cash flows for the fiscal year audited.

5. Prepare the Schedule of Expenditures of Federal Awards (SEFA). The SEFA shall include:

- a. Federal programs by Federal agency.
- b. The name of the pass-through entity and identifying number assigned by the pass-through entity.
- c. Total Federal awards expended for each individual Federal program and the CFDA number.
- d. Notes that describe the significant accounting policies used in preparing the schedule.
- e. To the extent practical, identify the total amount provided to subrecipients, if applicable, from each Federal program.

6. Ensure that the audits, reporting package and data collection form as required by the SAA Amendments, OMB Circular A-133, and this PGL are properly performed and submitted within the earlier of 30 days after receipt of the Auditor=s Report(s), or 9 months after the end of the audit period to:

- a. the Federal clearinghouse; and
- b. each direct Federal awarding agency, whose direct Federal awards were disclosed as an audit finding in the Schedule of Findings and Questioned Costs or whose status of direct Federal awards was reported in the Summary Schedule of Prior Audit Findings.

7. If an extension to the report submission due date is needed, request the extension from the Federal cognizant or oversight agency, and promptly notify the Federal clearinghouse designated by OMB and each pass-through entity providing Federal awards of the extension.

8. Follow up and take corrective action on audit findings, including preparation of a Summary Schedule of Prior Audit Findings and Corrective Action Plan:

- a. The Summary Schedule of Prior Audit Findings shall include and report:
- (1) The reference numbers the auditor assigns to audit findings.
 - (2) The fiscal year in which the finding initially occurred.
 - (3) The status of all audit findings included in the prior audit=s Schedule of Findings and Questioned Costs relative to Federal awards.
 - (4) The audit findings reported in the prior audit=s Summary Schedule of Prior Audit Findings:
 - (a) When audit findings were not corrected or were only partially corrected, the summary schedule shall describe the planned corrective action as well as any partial corrective action taken;
 - (b) When corrective action taken is significantly different from corrective action previously reported in a corrective action plan or in the Federal agency=s or pass-through entity=s management decision, the summary schedule shall provide an explanation.
 - (c) When audit findings were fully corrected, the summary schedule need only list the audit findings and state that corrective action was taken.
 - (d) When the auditee believes the audit findings are no longer valid or do not warrant further actions, the reasons for this position shall be described in the summary schedule. A valid reason for considering an audit finding as not warranting further action is that all of the following have occurred:
 - i) Two years have passed since the Audit Report in which the finding occurred was submitted to the Federal clearinghouse;
 - ii) The Federal agency or pass-through entity is not currently following up with the auditee on the audit finding; and

iii) A Management Decision (Final Determination) was not issued.

b. The Corrective Action Plan shall address each audit finding included in the current year=s audit report and shall provide:

- (1) The name(s) of the contact person(s) responsible for corrective action;
- (2) The corrective action planned; and
- (3) The anticipated completion date.

If the auditee does not agree with the audit findings or believes corrective action is not required, then the Corrective Action Plan shall include an explanation and specific reasons.

9. Submit a Data Collection Form that states whether the Audit was completed in accordance with OMB Circular A-133 and provides information about the auditee, its Federal programs and the result of the Audit. The Data Collection Form shall:

- a. Include a statement, which is signed by a senior level representative of the auditee, that the auditee complied with the requirements of OMB Circular A-133, the form was prepared in accordance with OMB Circular A-133, and the information included in the form, in its entirety, is accurate and complete.
- b. The type of report the auditor issued on the financial statements of the auditee.
- c. Where applicable, a statement that reportable conditions in internal control were disclosed by the audit of the financial statements and whether any such conditions were material weaknesses.
- d. A statement as to whether the audit disclosed any noncompliance, which is material to the financial statements of the auditee.
- e. Where applicable, a statement that reportable conditions in internal control over major programs were disclosed by the audit and whether any such conditions were material weaknesses.
- f. The type of report the auditor issued on compliance for major programs.

- g. A list of the Federal awarding agencies which will receive a copy of the Reporting Package which includes the:
 - (1) Financial statements and Schedule of Expenditures of Federal Awards;
 - (2) Summary Schedule of Prior Audit Findings;
 - (3) Auditor=s Report(s); and
 - (4) Corrective Action Plan.
- h. A yes or no statement as to whether the auditee qualified as a low-risk auditee.
- i. The dollar threshold used to distinguish between Type A and Type B programs.
- j. The Catalog of Federal Domestic Assistance (CFDA) number for each Federal program, as applicable.
- k. The name of each Federal program and identification of each major program.
- l. The amount of expenditures in the Schedule of Expenditures of Federal Awards associated with each Federal program.
- m. For each Federal program, a yes or no statement as to whether there are audit findings in each of the following types of compliance requirements and the total amount of any questioned costs:
 - (1) Activities allowed or unallowed.
 - (2) Allowable costs/cost principles.
 - (3) Cash management.
 - (4) Davis-Bacon Act.
 - (5) Eligibility.
 - (6) Equipment and real property management.
 - (7) Matching, level of effort, earmarking.
 - (8) Period of availability of Federal funds.
 - (9) Procurement and suspension and debarment.
 - (10) Program Income.
 - (11) Real property acquisition and relocation assistance.
 - (12) Reporting.
 - (13) Subrecipient monitoring.
 - (14) Special tests and provisions.

- n. Auditee Name, Employer Identification Number(s), Name and Title of Certifying Official, Telephone Number, Signature, and Date.
- o. Whether the auditee has either a Federal cognizant or oversight agency for audit.
- p. The name of the Federal cognizant or oversight agency.

B. Cognizant Agency

Recipients expending more than \$25 million a year in Federal awards shall have a cognizant agency for audit. The designated cognizant agency for audit shall be the Federal awarding agency that provides the predominant amount of direct funding to a recipient unless OMB makes a specific cognizant agency for audit assignment.

The cognizant agency shall:

- 1. Provide technical audit advice and liaison to auditees and auditors.
- 2. Consider auditee requests for extensions to the report submission due date.
- 3. Obtain or conduct quality control reviews of selected audits made by non-Federal auditors, and provide the results, when appropriate, to other interested organizations.
- 4. Promptly inform other affected Federal agencies and appropriate Federal law enforcement officials of any direct reporting or illegal acts, as required by GAGAS or laws and regulations.
- 5. Advise the auditor and, where appropriate, the auditee of deficiencies found in the Audits when the deficiencies require corrective action by the auditor.
- 6. Coordinate, to the extent practical, audits or reviews made by or for Federal agencies that are in addition to the Audits made pursuant to Circular A-133.
- 7. Coordinate a Management Decision for audit findings that affect the Federal programs of more than one agency.
- 8. Coordinate the audit work and reporting responsibilities among auditors to achieve the most cost-effective audit.

C. Oversight Agency

An auditee who does not have a designated cognizant agency for audit will be under the general oversight of the Federal agency that provides the predominant amount of direct funding to a recipient. When there is no direct funding, the Federal agency with the predominant indirect funding shall assume the oversight responsibilities.

The oversight agency for audit:

1. Shall provide technical advice to auditees and auditors as requested.
2. May assume all or some of the responsibilities normally performed by a cognizant agency for audit. (See III. B., above)

D. Federal Awarding Agency

The Federal awarding agency is the Federal agency that provides an award directly to the recipient.

The Federal awarding agency shall perform the following for the Federal awards it makes:

1. Identify Federal awards made by informing each recipient of the CFDA title and number, award name and number, and award year.
2. Advise recipients of requirements imposed on them by Federal laws, regulations, and the provisions of contract or grant agreements.
3. Ensure that audits are completed and reports are received in a timely manner and in accordance with the requirements of OMB Circular A-133.
4. Provide technical advice and counsel to auditees and auditors as requested.
5. Issue a Management Decision on audit findings within six months after receipt of the Audit Report and ensure that the recipient takes appropriate and timely corrective action.
6. Assign a person responsible for providing annual updates of the compliance supplement to OMB.

E. Pass-Through Entity

The pass-through entity is a non-Federal entity that provides a Federal award to a subrecipient to carry out a Federal program. The pass-through entity shall perform the following for the Federal awards it makes:

1. Identify Federal award made by informing each subrecipient of CFDA title and number, award name and number, award year, and name of Federal agency.
2. Advise subrecipients of requirements imposed on them by Federal laws, regulations, and the provisions of contracts or grant agreements as well as any supplemental requirements imposed by the pass-through entity.
3. Monitor the activities of subrecipient as necessary to ensure that Federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreement that performance goals are achieved.
4. Ensure that subrecipient expending \$300,000 or more in Federal awards during the subrecipient's fiscal year have met the audit requirements of the SAA Amendments, OMB Circular A-133 and this PGL.
5. Issue a Management Decision (Final Determination) on audit findings within six months after receipt of the subrecipient's audit report and ensure that the subrecipient takes appropriate and timely corrective action.
6. Consider whether subrecipient audits necessitate adjustment of the pass-through entity's own records.
7. Require each subrecipient to permit the pass-through entity and auditors to have access to the records and financial statements as necessary for the pass-through entity to comply with the SAA amendment, OMB Circular A-133 and this PGL.

F. Auditors

The auditor is a public accountant or a Federal, State or local government audit organization, which meets the general standards specified in generally accepted government auditing standards (GAGAS).

The auditor shall:

1. Conduct an audit in accordance with GAGAS.
2. Determine whether the financial statements of the auditee are presented fairly

in all material respects in conformity with generally accepted accounting principles.

3. Determine whether the Schedule of Expenditures of Federal Awards is presented fairly in all material respects in relation to the auditee=s financial statements taken as a whole.
4. Perform procedures to obtain an understanding of internal control over Federal programs sufficient to plan the audit to support a low assessed level of control risk for major programs.
5. Determine whether the auditee has complied with laws, regulations, and the provisions of contracts or grant agreements that may have a direct and material effect on each of its major programs.
6. Follow-up on prior audit findings, perform procedures to assess the reasonableness of the Summary Schedule of Prior Audit Findings prepared by the auditee, and report, as a current year finding, when the auditor concludes that the Summary Schedule of Prior Audit Findings materially misrepresents the status of any prior audit finding.
7. Complete and sign a statement to be included as part of the Data Collection Form that indicates, at a minimum, the source of the information included in the form, the auditor=s responsibility for the information, that the form is not a substitute for the reporting package, and that the content of the form is limited to the data elements prescribed by OMB.
8. Prepare an Auditor=s Report(s) which shall state that the Audit was conducted in accordance with Circular A-133 and include the following:
 - a. An opinion as to whether the financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles.
 - b. An opinion as to whether the Schedule of Expenditures of Federal Awards is presented fairly in all material respects in relation to the financial statements taken as a whole.
 - c. A report on internal control related to the financial statements and major programs.

- d. A report on compliance with laws, regulations, and the provisions of contracts or grant agreements, noncompliance with which could have a material effect on the financial statements. This report shall also include an opinion as to whether the auditee complied with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on each major program.
- e. A Schedule of Findings and Questioned Costs that shall include the following three components:
 - (1) A summary of the auditor=s results that shall include:
 - (a) The type of report the auditor issued on the financial statements of the auditee;
 - (b) Where applicable, a statement that reportable conditions in internal control were disclosed by the audit of the financial statements and whether any such conditions were material weaknesses;
 - (c) A statement as to whether the audit disclosed any noncompliance which is material to the financial statements of the auditee;
 - (d) Where applicable, a statement that reportable conditions in internal control over major programs were disclosed by the audit and whether any such conditions were material weaknesses;
 - (e) The type of report the auditor issued on compliance for major programs;
 - (f) A statement as to whether the audit disclosed any audit findings;
 - (g) An identification of major programs;
 - (h) The dollar threshold used to distinguish between Type A and Type B programs; and
 - (i) A statement as to whether the auditee qualified as a low-risk auditee.

- (2) Findings relating to the financial statements that are required to be reported in accordance with GAGAS.
 - (3) Findings and questioned costs for Federal awards.
- f. A Schedule of Findings and Questions Costs that shall include:
- (1) Reportable conditions in internal control over major programs.
 - (2) Material noncompliance with the provisions of laws, regulations, contracts, or grant agreements related to a major program.
 - (3) Known questioned costs that are greater than \$10,000 for a type of compliance requirement for a major program.
 - (4) Known questioned costs that are greater than \$10,000 for a Federal program that is not audited as a major program.
 - (5) The circumstances concerning why the auditor=s report on compliance for major programs is other than an unqualified opinion.
 - (6) Known fraud affecting a Federal award.
 - (7) Instances where the results of audit follow-up procedures disclosed that the Summary Schedule of Prior Audit Findings, prepared by the auditee, materially misrepresents the status of any prior audit finding.
- g. Present audit findings in sufficient detail for the auditee to prepare a Corrective Action Plan and take corrective action and for Federal agencies and pass-through entities to arrive at a management decision.

The following specific information shall be included, as applicable, in audit findings:

- (1) Federal program and specific Federal award identifications including the CFDA title and number, Federal award number and year, name of Federal agency, and name of the applicable pass-through entity.

- (2) The criteria or specific requirement upon which the audit finding is based, including statutory, regulatory, or other citation.
 - (3) The condition found, including facts that support the deficiency identified in the audit finding.
 - (4) Identification of questioned costs and how they were computed.
 - (5) Information to provide proper perspective for judging the prevalence and consequences of the audit findings.
 - (6) The possible asserted effect, to provide sufficient information to the auditee and Federal agency, or pass-through entity, in the case of a subrecipient, to permit them to determine the cause and effect to facilitate prompt and proper corrective action.
 - (7) Recommendations to prevent future occurrences of the deficiency identified in the audit finding.
 - (8) Views of responsible officials of the auditee, when there is disagreement with the audit findings, to the extent practical.
 - (9) A reference number to allow for easy referencing of the audit findings during follow-up.
9. Use a risk-based approach to determine which Federal programs are major programs.
10. Audit Federal programs and awards as major programs that expended, in the aggregate, at least 50 percent (50%) of total Federal awards expended. If the auditee meets the criteria for a low-risk auditee, the auditor only need to audit Federal awards and awards as major programs that expended, in the aggregate, at least 25 percent (25%) of total Federal awards expended.

IV. **CDLE=S AUDIT REQUIREMENTS AND PROCEDURES**

These procedures highlight the specific CDLE audit and audit resolution procedures. They should be followed along with and in addition to the Audit Requirements and Responsibilities as stated above, where applicable.

In order to meet their audit resolution responsibilities, subrecipients of CDLE Federal funding that are pass-through entities shall implement similar procedures for their subrecipients.

A. **Auditor Procurement**

Subrecipients shall follow the procurement requirements in accordance with 99.305 of OMB Circular A-133 in the absence of procurement laws and regulations for its Federal awards.

B. **Submission of Audit Report(s) to CDLE**

1. **Reporting Package**

In accordance with monitoring requirements at 29 CFR 97.40, a reporting package prepared in accordance with the SAA Amendments, OMB Circular A-133, and this PGL shall be submitted to CDLE from all its subrecipients that expended \$300,000 or more in Federal awards in its fiscal years beginning after June 30, 2000 (i.e., on or after July 1, 2000).

Please refer to PGL #98-04-F6-1 for fiscal years beginning after June 30, 1996 through June 30, 2000.

The Reporting Package is due to CDLE within the earlier of 30 days after receipt of the Auditor=s Report(s), or 9 months after the end of the audit period.

2. **Extension Requests**

If an audit report is going to be submitted late, the subrecipient must submit a copy of the granted Extension Request it has received from its Federal cognizant or oversight agency, whichever is applicable, in accordance with 99.400(a)(2) and 99.400(b)(2), respectively, to CDLE before the submission due date.

3. Management Letter

If the subrecipient is a WR or if the subrecipient=s predominant amount of direct Federal funding was received from CDLE, the management letter, if issued, shall be submitted to CDLE along with the reporting package. However, if the management letter is not received by the subrecipient at the same time as the Reporting Package, the Management Letter is also due to CDLE within 30 days after receipt of the Management Letter, or 9 months after the end of the audit period, whichever is earlier.

4. Corrective Actions

- a. A subrecipient, whose predominate amount of direct Federal funding was received from CDLE, shall prepare and submit a Corrective Action Plan to CDLE in accordance with 99.315(c) for every general and/or administrative audit finding
- b. If a WR=s Management Letter has matters related to CDLE funding, the WR shall prepare and submit a Corrective Action Plan to CDLE in accordance with 99.315(c) for each applicable management letter matter.
- c. A subrecipient, whose predominate amount of direct Federal funding was received from CDLE, shall prepare and submit a Corrective Action Plan to CDLE in accordance with 99.315(c) for every Management Letter matter.

5. CDLE=s Address

All audit related material and information, including reports, packages, management letters, correspondence, etc. shall be submitted to:

Department of Labor and Employment
Office of Finance, Audit Section
1515 Arapahoe Street, Tower 3, Suite 660
Denver, Colorado 80202-2117

6. Receipt of Reporting Package and Management Letter

CDLE will not consider the Audit Report received until the subrecipients Reporting Package and Management Letter, if required, have been prepared and submitted to CDLE in accordance with the SAA Amendments, OMB Circular A-133 and this PGL.

C. **Audit Resolution Process**

1. **Review**

When a subrecipient submits an audit report to CDLE, CDLE will review it to determine whether it has been prepared and submitted in accordance with the SAA Amendments, OMB Circular A-133, and this PGL.

If the audit report has not been prepared or submitted in accordance with the SAA Amendments, OMB Circular A-133, and this PGL, CDLE may reasonably pursue the proper preparation and submittal by contacting the subrecipient and/or its auditor. If it is determined by CDLE that the proper preparation and submittal of an audit report cannot be reasonably attained, CDLE may implement corrective actions or sanctions upon the subrecipient.

If the audit report has been prepared and submitted in accordance with the SAA Amendments, OMB Circular A-133, and this PGL, the audit report will be considered “received”, and thereby, start the 180 calendar day audit resolution time period.

2. **Initial Determination**

Within thirty (30) calendar days, except for good cause, of CDLE=s receipt of the audit report(s) prepared and submitted in accordance with the SAA Amendments, OMB Circular A-133, and this PGL, CDLE will issue an Initial Determination to the subrecipient=s Administrator or other appropriate personnel.

The Initial Determination will allow ten (10) calendar days from the date of the Initial Determination for the subrecipient to confirm receipt of the Initial Determination and request informal resolution from CDLE. If the subrecipient does not contact CDLE within a reasonable amount of time, CDLE may pursue verification of receipt of the Initial Determination by contacting the appropriate subrecipient personnel. The Initial Determination will also allow the subrecipient to request technical assistance from CDLE regarding the Initial Determination.

CDLE=s Initial Determination may include, but will not be limited to, when applicable:

- a. Costs questioned or recommended for disallowance;
- b. General administrative findings;

- c. Requested documentation, explanations, reconciliations, etc., necessary to substantiate expenditures;
- d. Schedule of Expenditures of Federal Awards reconciliation;
- e. Actions required to correct identified administrative weaknesses;
- f. Actions required to resolve such discrepancies;
- g. Repayment options, if available;
- h. Stand-in cost resolution options; and
- i. Request for repayment.

The Initial Determination will allow ninety (90) calendar days for informal resolution.

3. Informal Resolution

All information, documentation, explanations, reconciliations, etc. in response to the Initial Determination shall be submitted by the subrecipient to CDLE within ninety (90) calendar days of the date of the Initial Determination.

If the required information, documentation, explanations, etc. are not submitted to CDLE within ninety (90) calendar days of the date of the Initial Determination, CDLE may pursue the proper submittal of such, otherwise, CDLE will prepare the Final Determination and/or implement corrective actions and/or sanctions upon the subrecipient.

CDLE may consider granting written requested extensions to the informal resolution submission due date for good cause.

Stand-in Costs

The application of stand-in costs is an informal resolution activity.

If the auditee agrees that the auditor=s questioned cost is unallowable and wishes to propose the use of stand-in costs as substitutes for otherwise unallowable costs, the proposal shall be included with the response to the Initial Determination and submitted during the informal resolution period.

Stand-in costs are substitutes, disbursed or accounted for from non-Federal funds, for unallowable Federal costs identified in the audit report. To be considered as valid substitutions, the costs must:

- a. Not be caused by the willful disregard of the requirements of the Act, gross negligence, failure to observe accepted standards of administration, or fraud;
- b. Be allowable Federal costs that were actually incurred by a Federal program, but paid by a non-Federal source;
- c. Have been reported as uncharged Federal program costs;
- d. Have been included within the scope of the subrecipient's audit;
- e. Have been accounted for in the auditee's financial system; and
- f. Be adequately documented in the same manner as all other Federal program costs. This means that the unbilled expense must be treated in a manner consistent with cost principles affecting other expenses, including, but not limited to the cost allocation methodology, cost classification methodology and supporting documentation requirements.

To be accepted, stand-in costs must come from the same Federal Title/Program and program year as the costs that they are proposed to replace, and they must not cause a violation of the cost limitations.

4. Final Determination

CDLE will issue a Final Determination within 180 calendar days, except for good cause, of CDLE's receipt of the audit report. The Final Determination may include, but not be limited to, when applicable:

- a. Whether or not the audit findings and/or management letter matters are sustained, and costs allowed or disallowed;
- b. The reason for the decision;
- c. Establishment of a debt for disallowed costs;
- d. The expected subrecipient action to repay disallowed costs, make financial adjustment, or take other actions;

- e. Debt collection process; and
- f. Appeal process.

D. Audit Appeal/Hearing Process

1. Request for Hearing

The subrecipient will be offered twenty-one (21) calendar days from receipt of the CDLE Final Determination in which to request a hearing. The request shall be sent via certified mail, return receipt requested, to:

**Vickie L. Armstrong, Executive Director
Department of Labor and Employment
Office of the Executive Director
Two Park Central, Suite 400
1515 Arapahoe Street
Denver, Colorado 80202-2117**

The twenty-one (21) calendar day request for hearing filing requirement is jurisdictional. Failure to timely request a hearing acts as a waiver of the right to a hearing.

The request for a hearing should include the following information:

- a. The full name of the subrecipient;
- b. The name, title, telephone number, and full address of the person handling the request for hearing;
- c. A clear and concise statement of the issue(s) upon which the hearing is requested. Those provisions of the Final Determination not specified for review, or the entire Final Determination when no hearing has been requested with the allocated twenty-one (21) calendar days, shall be considered resolved and not subject to hearing; and
- d. A clear and concise statement of the reason for the request.

2. Hearing Scheduled

CDLE shall, within thirty (30) calendar days, except for good cause, schedule a hearing before an independent hearing officer or an administrative law judge.

3. Rules of Procedure

The rules of practice and procedure promulgated by the Colorado State Division of Administrative Hearings, at Colorado Revised Statutes, Section 24-4-105, shall govern the conduct of hearings.

4. Hearing Decisions

The rules of hearings and determinations promulgated by the Colorado State Division of Administrative Hearings, at Colorado Revised Statutes, Section 24-4-105, shall govern the conduct of the rules of procedures, timely submission of evidence, timing of decisions, and further appeal rights.

E. Subrecipient=s Audit Appeal/Hearing Process

To ensure timely and appropriate resolution for audits of all, CDLE suggests that all subrecipients include the following procedures, at a minimum, in their audit procedures, subgrants, or subcontracts for audit resolution disputes with their lower tier subrecipients:

1. The period of time, not less than 15 days nor more than 30 days, after the issuance of the Final Determination in which an appeal may be filed;
2. The rules of procedure;
3. Timely submission of evidence;
4. The timing of decisions; and
5. Further appeal rights, if any.

F. Sanctions for Misexpenditures of Grant Funds

The State shall be held responsible for all grant funds received. In turn, the State shall hold all subrecipients, including Workforce Region's responsible for all grant funds received, and may ultimately hold the units of local government which constitute the Workforce Region responsible for such funds.

Debts, if not paid when due, shall be referred to the State Controller and the Central Collection Service of the Central Service Division in accordance with Colorado Revised Statutes 24-30-202.4 for debt collection activities.

G. Repayment Options

1. Repayment

Non-Federal cash repayment, either as a lump sum or as installments, is a debt option. The repayment must be made to the applicable Federal agency, through the CDLE, when the availability period for the misexpended funds has expired.

Repayments made to CDLE will be made available for reprogramming under the same program only if the expenditure of the reprogrammed funds can be made within the availability/funding period of the originally misexpended funds.

Subrecipients must remit to CDLE, and CDLE, in turn, must remit non-Federal funds to applicable Federal agency that will not be available for reprogramming, no matter the availability period, if the misexpenditure of funds was due to:

- a. Willful disregard of the requirements of the employment and training program, gross negligence, or failure to observe accepted standards of administration.
- b. Incidents of fraud, abuse, malfeasance, and program mismanagement.
- c. Illegal acts or irregularities.

2. Reprogramming

When the availability period for the funds has not lapsed and none of the criteria that require repayment to the applicable Federal agency apply, an awarding agency may reprogram any funds it collects, if the expenditure of the reprogrammed funds can be made within the availability/funding period of the originally misexpended funds.

H. Process for Waiver of State Liability

In general, the waiver of State liability can only be considered by the Grant Officer when the misexpenditure of employment and training funds:

1. Occurred at a subrecipient level;
2. Was not due to willful disregard of the requirements of the law, gross negligence, failure to observe accepted standards of administration, or fraud; and;
 - a. The recipient/subrecipient discovered, investigated, reported, and prosecuted the perpetrator of said fraud; and
 - b. After aggressive debt collection action, it can be documented that there is no likelihood of collection from the perpetrator of the fraud.
3. The State has issued a Final Determination which disallows the misexpenditure, the State=s appeal process has been exhausted, and a debt has been established; and
4. The State requests such a waiver and provides documentation to demonstrate that it has substantially complied with, as stated at section 164(e)(2) of the Act:
 - a. Established and adhered to an appropriate system for the award and monitoring of contracts with subgrantees which contains acceptable standards for ensuring accountability;
 - b. Entered into a written contract with such subgrantee that established goals and obligations in unambiguous terms;
 - c. Acted with due diligence to monitor the implementation of the subgrantee contracts, including the carrying out of the appropriate monitoring activities (including audits) at reasonable intervals; and
 - d. Taken prompt and appropriate corrective action upon becoming aware of any evidence of a violation of the Act or the regulations under this Act by such subgrantee.
5. The State will not be released from liability for misspent funds unless the Grant Officer determines that further collection action, either by the State or subrecipient, would be inappropriate or would prove futile.

I. Requests for Advance Approval for the State to Forego Debt Collection

1. The State may be able to request advance approval from the Grant Officer for contemplated corrective actions, including debt collection actions, which the State plans to initiate or to forego. The State=s request will include all actions taken by the State to collect the misspent funds.
2. The Grant Officer may determine that the State may forego certain collection actions against a subrecipient where the State met the following requirements:
 - a. Established and adhered to an appropriate system for the award and monitoring of contracts with subgrantees which contains acceptable standards for ensuring accountability;
 - b. Entered into a written contract with such subgrantee, which established goals and obligations in unambiguous terms;
 - c. Acted with due diligence to monitor the implementation of the subgrantee contract, including the carrying out of the appropriate monitoring activities (including audits) at reasonable intervals; and
 - d. Taken prompt and appropriate corrective action upon becoming aware of any evidence of a violation of the law or the regulations under this law by such subgrantee; and
 - e. The misexpenditure of funds:
 - (1) Was not made by that subrecipient but by an entity that received Federal funds from that subrecipient;
 - (2) Was not due to willful disregard of the requirements of the Act, gross negligence, failure to observe accepted standards of administration, or fraud;
 - (a) The subrecipient discovered, investigated, reported, and prosecuted the perpetrator of said fraud; and
 - (b) After aggressive debt collection action, it can be documented that there is no likelihood of collection form the perpetrator of the fraud;

- (c) A Final Determination that disallows the misexpenditure and established a debt has been issued at the appropriate level;
- (d) Final action with the State=s appeal system has been completed; and
- (e) Further debt collection action by that subrecipient of the recipient would be either inappropriate or futile.

J. Record Keeping

All subrecipients, whether subject to the audit requirements or not, must continue to comply with any Federal statute and regulations, that require the non-Federal entity to maintain records concerning Federal awards provided to the non-Federal entity and the *Record Retention* PGL. All non-Federal entities must permit access to and make available such records for review, monitoring, or audit by appropriate Federal Agencies, the State, or the Comptroller General.

Audit working papers shall be made available upon request to: the Federal cognizant or oversight agency for audit or its designee; a Federal agency providing direct or indirect funding; GAO or the State at the completion of the Audit, as part of a quality review, to resolve audit findings, or to carry out oversight responsibilities consistent with purposes of the SAA Amendments, OMB Circular A-133 and this PGL. Access to working papers includes the right of Federal agencies and the State to obtain copies of working papers, as is reasonable and necessary.

K. Record Retention

The subrecipient's auditors shall retain working papers and reports for a period of three (3) years from the close of the applicable program year in accordance with the *Record Retention* PGL or until the audit has been fully resolved, whichever is later. When the auditor is aware that the Federal awarding agency, the State, or auditee is contesting an audit finding, the auditor shall contact the parties contesting the audit finding for guidance prior to destruction of working papers and reports.